

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

January 20, 2004

**CALL TO PODIUM:**

Patricia Patula

**RESPONSIBLE STAFF:**

Patricia Patula, Planner  
Trudy Schwarz, Community  
Planning Director

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Joint Public Hearing
	Historic District
	Consent Item
<input checked="" type="checkbox"/>	Ordinance
	Resolution
<input checked="" type="checkbox"/>	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	11-12-03
	11-19-03
Hearing Date	12-1-03
Record Held Open	1-2-04
Policy Discussion	1-20-04

**TITLE:****POLICY DISCUSSION:**

T-358 An ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, entitled "Regulations Applicable to Particular Zones," Division 21, entitled "CBD Zone, Central Business District," Section 24-160.F.2 to add private educational institution uses in the CBD Zone as a special exception use.

**SUPPORTING BACKGROUND:**

A joint public hearing was held on this topic on December 1, 2003. There was no public input either for or against the proposed text amendment. During the open record period, only a few additional exhibits—minutes, transcript, legal ad—were received. At their meeting of January 7, 2004, the Planning Commission voted unanimously to recommend Text Amendment T-358 for Adoption to the Mayor and City Council.

Adopting this text amendment will make the existing schools legally non-conforming and therefore subject to Section 24-19 "Nonconforming Use of Structures." Additionally, having the oversight of the Board of Appeals is useful to monitor the parking concerns that these uses can bring.

The ordinance is ready for adoption at this meeting should the Council vote to approve it.

**Attachments:**

Planning Commission Recommendation

Draft Ordinance

Minutes

Transcript

**DESIRED OUTCOME:**

Adopt ordinance.

**COMMUNICATION: PLANNING COMMISSION**

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**MEMORANDUM TO:** Mayor and City Council

**VIA:** David Humpton, City Manager

**FROM:** Patricia Patula, Planner

**DATE:** January 8, 2004

**SUBJECT:** T-358 --Request to amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, entitled, "Regulations Applicable to Particular Zones," Division 21, entitled, "CBD Zone, Central Business District," §24-160.F.2 to add private educational institution uses in the CBD Zone as a special exception use.

At its regular meeting on January 7, 2004, the Planning Commission made the following motion:

Commissioner Bauer moved, seconded by Commissioner Winborne, to recommend Text Amendment T-358 for ADOPTION to the Mayor and City Council.

Vote: 5-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE  
(CITY ZONING ORDINANCE), ARTICLE III, ENTITLED,  
"REGULATIONS APPLICABLE TO PARTICULAR ZONES,"  
DIVISION 21, ENTITLED, "CBD ZONE, CENTRAL BUSINESS DISTRICT,"  
§24-160.F.2 TO ADD PRIVATE EDUCATIONAL INSTITUTION USES  
IN THE CBD ZONE AS A SPECIAL EXCEPTION USE.

**Text Amendment No. T-358**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24, Article III, Division 21, §24-160.F.2 be, and it hereby is, amended to read as follows:

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

\* \* \*

Division 21. CBD Zone, Central Business District

\* \* \*

**Sec. 24-160.F.2. Uses Allowed.**

(a) Permitted Uses

\* \* \*

(b) Special Exception uses.

- |     |   |   |   |   |   |   |   |
|-----|---|---|---|---|---|---|---|
| (1) | * | * | * | * | * | * | * |
| (2) | * | * | * | * | * | * | * |
| (3) | * | * | * | * | * | * | * |
| (4) | * | * | * | * | * | * | * |

(5) Private educational institutions.

\* \* \*



ADOPTED this \_\_\_ day of \_\_\_\_\_, 2003, by the City Council of Gaithersburg, Maryland.

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DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_ day of \_\_\_\_\_, 2003. APPROVED/VETOED by the Mayor of the City of Gaithersburg, this \_\_\_ day of \_\_\_\_\_, 2003.

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SIDNEY KATZ, Mayor  
And President of the City Council

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_ day of \_\_\_\_\_, 2003, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the \_\_\_ day of \_\_\_\_\_, 2003. This Ordinance will become effective on the \_\_\_ day of \_\_\_\_\_, 2003.

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DAVID B. HUMPTON, City Manager

TRANSCRIPT OF  
JOINT PUBLIC HEARING

ON

**T-358**

Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article III, Entitled, "Regulations Applicable to Particular Zones," Division 21, Entitled, "CBD Zone, Central Business District," §24-160.F.2 to Add Private Educational Institution Uses in the CBD Zone as a Special Exception Use

BEFORE THE  
CITY OF GAITHERSBURG  
MAYOR AND CITY COUNCIL  
AND  
PLANNING COMMISSION

ON

December 1, 2003

Transcribed by  
Doris R. Stokes  
December, 2003



PARTICIPANTS

CITY COUNCIL

Mayor Katz  
Council Vice President Somerset  
Council Member Alster  
Council Member Edens  
Council Member Marraffa  
Council Member Schilchting

PLANNING COMMISSION

Chair Keller  
Vice Chair Bauer  
Commissioner Hicks  
Commissioner Winborne

Absent: Commissioner Levy

CITY MANAGER

David B. Humpton

STAFF

Planner Patula

Katz           The next item on our agenda is public hearings. Could the Planning Commission please join us. While they are doing that let me just say tonight we have two joint public hearings. Pat Patula will be introducing from staff. If you could please Pat.

Patula           This is a public hearing on T-358. This hearing has been duly advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003. At the present time there are seven (7) exhibits in the record file. These exhibits are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning Office during regular business hours at City Hall. Any objections to the receipt of any exhibits should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. In the category of request that has increased in recent years in Olde Towne is for private schools. That is for example driving schools, music schools, gymnastics and so forth. And there are a number of these private schools that have already been given use and occupancy permits. Olde Towne is zoned CBD for Central Business District. If you read the ordinance for that zone, it tells you what uses are permitted. It says, by right all uses listed is permitted and not as special exceptions in all the other things. Well recently it came to light that in the R-A Zone and the C-B Zone that these private educational institutions can only be allowed by special exception. So therefore, the existing schools in Olde Towne are not permitted by right as a result. Now these schools are of great benefit to the public and we would not want to see them become nonconforming uses. Therefore this text amendment that we are proposing would allow them to be in Olde Towne, but by special exception. If this text amendment is adopted, the existing schools would become legally nonconforming and then they will become subject to the part of the ordinance that deals with nonconforming uses and structures. And then also because they will be a special exception, the Board of Appeals would review the use and the Planning Commission

would be making recommendations as part of their process. And that would help with parking concerns which are usually the main concern for that type of use. Now that concludes the description of the text amendment that's proposed. And I just wanted to point out to you that staff's recommendation for the timing of closing the record, etc., that's based on the fact that the Planning Commission has only one meeting in December.

Katz Ok. Thank you. Any questions from the Commission or the Council of Pat? Ok. Thank you Pat.

Patula You're welcome.

Katz This is a time that the Mayor and Council and the Planning hear from anyone who would like to speak on this public hearing topic. We ask that you please keep your remarks to no more than three minutes. Any additional testimony that you might have can be submitted to the City in written form and will be a part of the record just as your oral testimony. Please state your name and address for the record. Do we have anyone who would like to come before us on this topic? No. Ok. What is the pleasure of the Planning Commission please?

Keller I believe staff wants us to hold our record open for eighteen (18) days and close our record on December 19, 2003. Do I have a motion?

Hicks So moved.

Keller Do I have a second.

Winborne Second.

Keller All in favor?



Commission Ayes.

Keller Aye. Motion passes 4-0.

Katz And what is the pleasure of the Council please?

Alster I move that the Council hold their record open on T-358 for thirty-two (32) days, to close on January 2, 2004.

Somerset Second.

Katz It's been moved and seconded. All those in favor please say aye?

Council Ayes.

Katz Opposed? That carries unanimously (5-0).

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END OF JOINT PUBLIC HEARING  
T-358

# The Gazette Ne

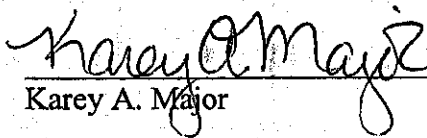
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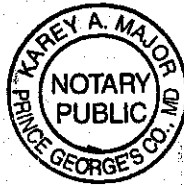
## CERTIFICATION C

THIS IS TO CERTIFY THAT THE ANNEXED LEGAL  
IN THE GAZETTE NEWSPAPERS FOR THE NUM

### City of Gaithersburg - Notice of Public Hearing

Gaithersburg Publishing Company

  
Karey A. Major



KAREY A. MAJOR  
Notary Public, State of Maryland  
Prince George's County  
My Commission Expires March 31, 2007

Ad Order Number: 1309639

Dates: St: 11/12/03 End: 11/19/03 Ins: 2

## NOTICE OF PUBLIC HEARING

The Mayor and Council and the Planning Commission of the City of Gaithersburg, Maryland, will conduct a joint public hearing on Text Amendment T-358, filed by Patricia Patula, for the Mayor and Council, on

**MONDAY**  
**DECEMBER 1, 2003**  
**AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests to amend Chapter 24 of the City Code (City Zoning Ordinance), Article III, entitled, "Regulations Applicable to Particular Zones," Division 21, entitled, "CBD Zone, Central Business District," §24-160.F.2 to add private educational institution uses in the CBD Zone as a special exception use.

Further information is available from the Department of Planning and Code Administration at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Patricia Patula, Planner  
Planning and Code Administration

1309639

(11/12, 11/19/03)



5. Board of Appeals Member Kurt Karst now resides outside of the City Corporate Limits of Gaithersburg and accordingly, he has submitted his letter of resignation effective December 15, 2003. Mayor Katz thanked Mr. Karst for his service and asked staff to invite him to an upcoming meeting to be recognized. He announced that a cover letter and resume be submitted by January 7, 2004, if anyone is interested in filling the vacancy.

#### IX. JOINT PUBLIC HEARINGS

1. **T-358 - Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article III, Entitled, "Regulations Applicable to Particular Zones," Division 21, Entitled, "CBD Zone, Central Business District," §24-160.F.2 to Add Private Educational Institution Uses in the CBD Zone as a Special Exception Use**

Planner Patula stated that the above public hearing was advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003, with seven (7) exhibits in the record file. Ms. Patula stated that private schools such as driving, music, gymnastics, and so forth, have recently increased in Olde Towne. A number of the private schools have already been given use and occupancy permits by the City. With Olde Towne zoned CBD for Central Business District, the existing schools are not permitted by right according to the ordinance in the R-A Zone and the C-B Zone. She further stated that these private educational institutions have been a great benefit to the public. The proposed text amendment would allow them to be in Olde Towne by special exception. If this text amendment is adopted, the existing schools would become legally nonconforming and then they will become subject to the part of the ordinance that deals with nonconforming uses and structures. In conclusion, she stated that as a special exception, the Board of Appeals would review the use and the Planning Commission would be making recommendations as part of their process. The process would help with parking concerns which are usually the main concern for this type of use.

There were no speakers from the public.

Motion was made by Commissioner Hicks, seconded by Commissioner Winborne, that the Planning Commission record on T-358, be held open for eighteen (18) days.

Vote: 4-0

Motion was made by Council Member Alster, seconded by Council Member Somerset, that the City Council record on T-358, be held open for thirty-two (32) days.

Vote: 5-0

2. **T-359 - Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled, "In General," §24-1 Entitled, "Definitions," Article III, Entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to Redefine Accessory Structures and Uses, Eliminate Certain Definitions and Define Certain Terms, Eliminate References Related to Signs as Accessory Structures, as Well as Revise Terminology and Regulations of Accessory Uses and Structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and Further to Amend Article IV, Entitled, "Supplementary Zone Regulations," §24-163 so as to Amend Standards and Requirements as to Accessory Structures and Garages Generally**

Planner Patula stated the above public hearing on accessory structures was advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003, with eight (8) exhibits. These exhibits are referenced in an exhibit list in the file. She gave a brief sum

